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Counsel for Defendant Meta Platforms, Inc.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

RICHARD KADREY, SARAH
 SILVERMAN, CHRISTOPHER GOLDEN,
 MICHAEL CHABON, TA-NEHISI COATES,
 JUNOT DIAZ, ANDREW SEAN GREER,
 DAVID HENRY HWANG, MATTHEW
 KLAM, LAURA LIPPMAN, RACHEL
 LOUSIE SNYDER, AYELET WALDMAN,
 and JACQUELINE WOODSON, Individually
 and on Behalf of All Others Similarly Situated,

Plaintiffs,

vs.

META PLATFORMS, INC.,

Defendant.

Case No. 3:23-cv-03417-VC

**STIPULATION AND [PROPOSED]
 ORDER RE: VOLUNTARY DISMISSAL
 AND CONSOLIDATION**

1 MIKE HUCKABEE, THE RELEVATE)
 2 GROUP, DAVID KINNAMAN, TSH) Case No. 3:23-cv-06663-VC
 3 OXENREIDER, LYSA TERKEURST, and)
 4 JOHN BLASE, Individually and on Behalf of)
 All Others Similarly Situated,)
 5)
 Plaintiffs,)
 6 vs.)
 7 META PLATFORMS, INC.,)
 8)
 Defendant.)

10
 11 Plaintiffs Lysa TerKeurst, Richard Kadrey, Sarah Silverman, Christopher Golden, Michael
 12 Chabon, Ta-Nehisi Coates, Junot Díaz, Andrew Sean Greer, David Henry Hwang, Matthew Klam,
 13 Laura Lippman, Rachel Louise Snyder, Ayelet Waldman, and Jacqueline Woodson (collectively,
 14 “Plaintiffs”) and Defendant Meta Platforms, Inc. (“Meta”; together with Plaintiffs, the “Parties”),
 15 by and through their respective counsel of record, hereby stipulate as follows.

16 **WHEREAS**, current plaintiff Lysa TerKeurst and former plaintiffs Mike Huckabee, The
 17 Relevate Group, David Kinnaman, Tsh Oxenreider, and John Blase (together, the “*Huckabee*
 18 Plaintiffs”), on behalf of themselves and all others similarly situated, commenced an action (the
 19 “*Huckabee* action”) by filing a Complaint on October 17, 2023, in the United States District Court
 20 for the Southern District of New York, against Defendants Meta, Bloomberg L.P., Bloomberg
 21 Finance, L.P., Microsoft Corporation (“Microsoft”), and The EleutherAI Institute;

22 **WHEREAS**, on December 28, 2023, the United States District Court for the Southern
 23 District of New York granted a stipulation to sever and transfer all claims against Meta and
 24 Microsoft to the United States District Court for the Northern District of California, in light of a
 25 substantially similar action against Meta already pending in this District, *Kadrey v. Meta*
 26 *Platforms, Inc.*, No. 3:23-cv-03417-VC (previously consolidated with *Chabon v. Meta Platforms,*
 27 *Inc.*, No. 3:23-cv-04663, which was filed on September 12, 2023, and consolidated into *Kadrey*
 28 on December 7, 2023) (hereinafter, the “*Kadrey* action”) (*Kadrey* Dkt. 62);

1 **WHEREAS**, the operative complaint in the *Kadrey* action is the First Consolidated
2 Amended Complaint (“FCAC”), filed on December 11, 2023 (*Kadrey* Dkt. 64);

3 **WHEREAS**, Meta filed its answer to the FCAC on January 10, 2024 (*Kadrey* Dkt. 72);

4 **WHEREAS**, on January 23, 2024, the Court ordered that the *Kadrey* and *Huckabee* actions
5 are related, and both cases are now pending before Judge Chhabria (*Kadrey* Dkt. 86);

6 **WHEREAS**, on January 30, 2024, the Court granted a stipulation voluntarily dismissing
7 without prejudice all claims against Microsoft (*Huckabee* Dkts. 105, 107);

8 **WHEREAS**, on January 25, 2024, this Court held a conference, during which, among
9 other things, the Parties discussed with the Court how to proceed with the *Huckabee* action and
10 whether it should be consolidated with the *Kadrey* action. The *Huckabee* Plaintiffs and Plaintiffs
11 in the *Kadrey* action indicated that they were considering consolidation via a dismissal of the
12 *Huckabee* Action and an amendment to have one of the *Huckabee* Plaintiffs added to the *Kadrey*
13 action. The Court confirmed that Meta need not respond to the Complaint in the *Huckabee* action;

14 **WHEREAS**, on June 18, 2024, *Huckabee* Plaintiffs Mike Huckabee, The Relevate Group,
15 David Kinnaman, Tsh Oxenreider, and John Blase filed a Notice of Voluntary Dismissal pursuant
16 to Fed. R. Civ. P. 41(a)(1)(A)(i), effectuating their dismissal without prejudice (*Huckabee* Dkt.
17 109);

18 **WHEREAS**, Plaintiffs Michael Chabon and Ayelet Waldman seek to withdraw from the
19 case and dismiss their claims against Meta with prejudice;

20 **WHEREAS**, separately, a dispute has arisen among the Parties over whether certain
21 communications, including those included in redacted form in the FCAC, constitute privileged
22 communications, which dispute the Parties are in the process of briefing and submitting to
23 Magistrate Judge Hixson for resolution (the “Privilege Dispute”), *see Kadrey* Dkt. 103. Resolution
24 of the Privilege Dispute, in turn, will likely inform what allegations Plaintiffs include when filing
25 a Second Consolidated Amended Complaint (“SCAC”); and

26 **WHEREAS**, the Parties have conferred and agreed to deadlines for the filing of the SCAC
27 and Meta’s answer to the SCAC following resolution of the Privilege Dispute, as well as to certain
28

1 restrictions on the content of these pleadings and certain prohibitions on further motion practice
2 directed thereto.

3 **NOW, THEREFORE, IT IS HEREBY STIPULATED** by and among the Parties,
4 subject to the approval of the Court, that:

5 1. The *Huckabee* action shall be consolidated with the *Kadrey* action.

6 2. Plaintiff Lysa TerKeurst will be added as a named plaintiff in the *Kadrey* action,
7 and Plaintiffs will be permitted to amend the FCAC by filing and serving a SCAC within five (5)
8 court days following resolution of the Privilege Dispute. The SCAC will add the paragraph specific
9 to Ms. TerKeurst from the *Huckabee* complaint (paragraph 23) and make deletions and conforming
10 edits where necessary but otherwise add no material or substantive allegations. Concurrently with
11 filing the SCAC, Plaintiffs will serve Meta with a true and correct redline showing all differences
12 between the FCAC and SCAC as filed.

13 3. Meta will file and serve its answer within five (5) court days after Plaintiffs file the
14 SCAC, and concurrently serve on Plaintiffs a redline showing all differences between its answers
15 to the FCAC and the SCAC. The answer to the SCAC will address Plaintiffs' new allegations
16 regarding Ms. TerKeurst in the SCAC and make conforming edits where necessary but otherwise
17 remain substantively unchanged.

18 4. There will be no motion practice directed to the SCAC or the answer to the SCAC
19 pursuant to Fed. R. Civ. P. 12(b)(6), 12(e) or 12(f).

20 5. Two Plaintiffs in the *Kadrey* action, Michael Chabon and Ayelet Waldman, hereby
21 voluntarily dismiss their claims against Meta with prejudice. Upon their dismissal with prejudice,
22 all outstanding discovery requests previously served upon Chabon and Waldman by Meta will be
23 deemed withdrawn. All parties will bear their own costs and attorneys' fees as to this stipulation
24 and the dismissal contemplated herein.

25 6. Nothing in this Stipulation will or is intended to otherwise affect the Parties'
26 respective rights, defenses, or objections.

27 ///

28 ///

1 IT IS SO STIPULATED.

2 Dated: June 28, 2024

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12 Dated: June 28, 2024

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Dated: June 28, 2024

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Huckabee Plaintiffs*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____, 2024

HON. VINCE CHHABRIA
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on June 28, 2024, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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For the *Huckabee* Action

ATTESTATION PURSUANT TO CIVIL L.R. 5-1(i)(3)

The filer attests that the other signatories listed, on whose behalf the filing is also submitted, are registered CM/ECF filers and concur in the filing's content and have authorized the filing.

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